



United States District Court
District of South Carolina

Date: November 6, 2002

Subject: Local Civil Rule 5.03 Amendment

NOTICE

At their regular meeting on July 26, 2002, the judges of the United States District Court for the District of South Carolina proposed a new local rule dealing with court-ordered secrecy agreements. In accordance with established procedures, the court published the rule for public comment. The court received a total of thirty-four comments on the proposed rule.

At their regular meeting on November 1, 2002, the judges considered the comments that had been received, and determined that no changes should be made to the proposed rule. Accordingly, the new rule took effect November 1, 2002.

The new rule adds Subsection C to Local Civil Rule 5.03. After its amendment by the addition of new Subsection C, Local Civil Rule 5.03 reads as follows (*new rule appears in underlined text*):

LOCAL CIVIL RULE 5.03, AS AMENDED NOVEMBER 1, 2002

5.03: *Filing Documents under Seal.* Absent a requirement to seal in the governing rule, statute, or order, any party seeking to file documents under seal shall follow the mandatory procedure described below. Failure to obtain prior approval as required by this Rule shall result in summary denial of any request or attempt to seal filed documents. Nothing in this Rule limits the ability of the parties, by agreement, to restrict access to documents which are not filed with the Court. See Local Civil Rule 26.08.

- (A) A party seeking to file documents under seal shall file and serve a "Motion to Seal" accompanied by a memorandum. See Local Civil Rule 7.04. The memorandum shall: (1) identify, with specificity, the documents or portions thereof for which sealing is requested; (2) state the reasons why sealing is necessary; (3) explain (for each document or group of documents) why less drastic alternatives to sealing will not afford adequate protection; and (4) address the factors governing sealing of documents reflected in controlling case law. *E.g., Ashcraft v. Conoco, Inc.*, 218 F.3d 288 (4th Cir. 2000); and *In re Knight Publishing Co.*, 743 F.2d 231 (4th Cir.1984). A non-confidential descriptive index of the documents at issue shall be attached to the motion.

A separately sealed attachment labeled "Confidential Information to be Submitted to Court in Connection with

Motion to Seal” shall be submitted with the motion. This attachment shall contain the documents at issue for the Court’s *in camera* review and shall not be filed. The Court’s docket shall reflect that the motion and memorandum were filed and were supported by a sealed attachment submitted for *in camera* review.

- (B) The Clerk shall provide public notice of the Motion to Seal in the manner directed by the Court. Absent direction to the contrary, this may be accomplished by docketing the motion in a manner that discloses its nature as a motion to seal.**
- (C) No settlement agreement filed with the court shall be sealed pursuant to the terms of this Rule.**